



Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket Number: CPSC-2011-0087]

Petition Requesting Exception from Lead Content Limits

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (“Commission” or “CPSC” or “we”) has received a petition requesting an exception from the 100 ppm lead content limit under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”), as amended by Public Law 112-28. We invite written comments concerning the petition.

DATE: Submit comments by **[insert date that is 30 days after publication]**.

ADDRESSES:

You may submit comments, identified by Docket No. CPSC-2011-0087, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail), except through www.regulations.gov.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; e-mail: khatlelid@cpsc.gov.

SUPPLEMENTARY INFORMATION:

Under section 101(a) of the CPSIA, consumer products designed or intended primarily for children 12 years old and younger that contain lead content in excess of 100 ppm are considered to be banned hazardous substances under the Federal Hazardous Substances Act (“FHSA”).

Section 101(b)(1) of the CPSIA provides for a functional purpose exception from lead content limits under certain circumstances. The exception allows us, on our own initiative, or upon petition by an interested party, to exclude a specific product, class of product, material, or component part from the lead limits established for children’s

products under the CPSIA if, after notice and a hearing, we determine that: (i) the product, class of product, material, or component part requires the inclusion of lead because it is not practicable or not technologically feasible to manufacture such product, class of product, material, or component part, as the case may be, in accordance with section 101(a) of the CPSIA by removing the excessive lead or by making the lead inaccessible; (ii) the product, class of product, material, or component part is not likely to be placed in the mouth or ingested, taking into account normal and reasonably foreseeable use and abuse of such product, class of product, material, or component part by a child; and (iii) an exception for the product, class of product, material, or component part will have no measurable adverse effect on public health or safety, taking into account normal and reasonably foreseeable use and abuse. Under section 101(b)(1)(B) of the CPSIA, there is no measurable adverse effect on public health or safety if the exception will result in no measurable increase in blood lead levels of a child. Given the highly technical nature of the information sought, including data on the lead content of the product and test methods used to obtain those data, we believe that the notice and solicitation for written comments would provide the most efficient process for obtaining the necessary information, as well as provide adequate opportunity for all interested parties to participate in the proceedings. However, we would have the option to hold a public hearing or public meeting, if appropriate, to determine whether a petition for a functional purpose exception should be granted.

On September 29, 2011, Joseph L. Ertl, Inc., Corporate office of divisions: Scale Models and Dyersville Die Cast (“petitioner”), submitted a petition requesting an exception from the lead content limit of 100 ppm under section 101(b) of the

CPSIA for its die-cast ride-on pedal tractors, scaled for children ages 3–10. The petitioner states that the components of its pedal tractors are made of aluminum metal die castings, which are the best alloy of choice for pedal tractor production, based on weight, cost, structural properties, surface finish and coatings, corrosion resistance, and bearing properties and wear resistance. The pedal tractor components are manufactured via the aluminum die-casting process. Although the petitioner states that it is able to meet the lead content requirements of 300 ppm for its pedal tractor components, it is unable to meet consistently the 100 ppm lead content limits, due to alloys used in the aluminum die-cast process. Accordingly, the petitioner requests an exception from the 100 ppm lead content limit to continue to manufacture its pedal tractors with components up to the 300 ppm lead content limit.

Through this notice, we invite written comments on the petition. Interested parties may view a copy of the petition under supporting and related materials identified by Docket No. CPSC-2011-0087, through <http://www.regulations.gov> or on the CPSC website at:

<http://www.cpsc.gov/library/foia/foia12/brief/ertlpetition.pdf>. Interested parties also may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Bethesda, MD 20184; telephone 301-504-7923.

Dated: November 9, 2011

Todd A. Stevenson, Secretary
Consumer Product Safety Commission

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